

STATE OF MICHIGAN
COURT OF APPEALS

OLGA WILEY and ANTLEY WILEY,

Plaintiffs-Appellees,

v

HENRY FORD COTTAGE HOSPITAL, an
assumed name for HENRY FORD HEALTH
SYSTEMS,

Defendant-Appellant,

and

JOHN DOE,

Defendant.

FOR PUBLICATION

July 10, 2003

9:05 a.m.

No. 233220

Wayne Circuit Court

LC No. 98-818728-NH

Updated Copy

August 29, 2003

Before: Jansen, P.J. and Kelly and Fort Hood, JJ.

KELLY, J. (*concurring in part and dissenting in part*).

I agree with the majority's opinion in all respects other than, its conclusion that this Court's decision in *Zdrojewski v Murphy*, 254 Mich App 50, 74-82; 657 NW2d 721 (2002), was incorrect and should be overruled. To the contrary, I agree with the reasoning and analysis applied by Judge Bandstra in his opinion in *Zdrojewski*, as well as that of Judge Hoekstra in *Phillips v Mirac, Inc*, 251 Mich App 586; 651 NW2d 437 (2002). The statutory cap on noneconomic damages set forth in MCL 600.1483 does not violate the Michigan Constitution.

/s/ Kirsten Frank Kelly